

Application No. 10/017,652

Attorney Docket No. CLCOCO P01AUS
(17486US01)**REMARKS**

The present application includes claims 1-20. Claims 1-20 have been rejected by the Examiner. Claim 11 has been amended by this response.

Claim 11 has been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. That is, the Examiner asserted that claim 11 recites both a system and a method. However, looking at claim 11, the preamble mentions "a method for providing supporting for a medical practitioner performing a medical process relating to diagnosis and treatment of a medical condition, comprising the steps of ..." The method occurs in a medical support system. Additionally, claim 11 has been amended to recite "providing" at least one process form and at least one support process, in keeping with the method claim. Thus, the Applicant respectfully submits that independent claim 11 is a proper method claim, and the Examiner's rejection should be withdrawn.

Claims 1-20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Joao (U.S. Patent No. 6,283,761) in view of Campbell (U.S. Patent No. 6,047,259).

However, Joao relates to providing healthcare information by processing symptom and condition information for a patient in conjunction with standard or average healthcare information, healthcare theories, healthcare principles, and/or healthcare research to generate a diagnostic report including a list of standard diagnoses corresponding to average condition and symptom information. Abstract. A final diagnosis is selected from the list and is used to

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generate a claim form. Abstract. The claim may then be processed. Col 4, lines 59-67 and col. 6, lines 45-51. Joao discusses managing patient records and healthcare information. Col. 2, lines 30-45.

As stated by the Examiner, Joao does not teach a medical support system including a memory for storing at least one medical support process relating to diagnosis and treatment of a medical condition, a processor responsive to the medical support process and to user inputs for performing the medical support process, an input device for user inputs relating to the medical support process and an output device for displaying the results of the medical support process to a user. Additionally, as echoed by the Examiner, Joao does not teach a medical support process including at least one process phase which includes one or more process operations. Joao does not teach that each of the process operations of a process phase includes at least one process form providing an interface between a user and the process operations of the process phase, each process form including fields for passing user inputs to the process operations and for displaying the results of the process operations to the user. Joao does not teach that each of the process operations of a process phase include at least one support process responsive to user inputs, the medical record and the guidelines for performing the process operations. As pointed out by the Examiner, Joao also does not teach that the support processes execute an interactive dialogue between the medical support process and the user to provide guidance to the user in performing the medical support process according to the guidelines and dependent upon the user inputs and the medical record. Joao also does not fairly suggest any of the above limitations in its disclosure.

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Campbell relates to software tools for conducting a physical exam, suggesting a tentative diagnosis, and managing a treatment protocol. Abstract. Campbell's software guides a user through a physical exam based on user input and generates a list of possible diagnoses based on selections from a list of standard observations for a physical examination. Abstract. The user can select a diagnosis from the list as well as a standardized treatment protocol. Abstract. In Campbell, a user selects a treatment protocol based on a computer-generated diagnosis. Col. 2, lines 1-4. The user selects the computer-generated diagnosis from a list of possible diagnoses. Col. 2, lines 22-30. A patient's record may then be updated to reflect that he is under treatment. Col. 2, lines 31-37.

However, the Application respectfully submits that Campbell does not teach or suggest at least one support process responsive to user inputs, a patient medical record and guidelines for performing the process operations. Campbell also does not teach or suggest a support process executes an interactive dialogue between the medical support process and the user to provide guidance to the user in performing the medical support process according to the guidelines and dependent upon the user inputs and the medical record. These limitations are recited in independent claims 1 and 11. Rather, Campbell simply serves as an electronic substitute for traditional hardcopy references indicating possible diagnoses and treatments based on average symptoms. Campbell provides predetermined exam screens and predetermined observations to allow a user to select among the observations, possible diagnoses and possible treatments rather than a dynamic, interactive processing. Col. 1, line 50 – col. 2, line 41.

Since neither Joao nor Campbell teaches or suggests at least the above-described limitations found in independent claims 1 and 11, any combination of Joao and Campbell would

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not teach or suggest all the limitations of independent claims 1 and 11. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP 706.02(j). Therefore, the Applicant respectfully submits that the Examiner's rejection be withdrawn and claims 1 and 11 should be allowable.

By extension, claims 2-10 and 12-20, which depend from independent claims 1 and 11, respectively, should also be allowable. Neither Joao nor Campbell, among other things, teaches or suggests, alone or in combination, at least one support process that is responsive to user inputs, a patient medical record and guidelines for performing the process operations, which executes an interactive dialogue between the medical support process and a user to provide guidance to the user in performing the medical support process according to the guidelines and dependent upon the user inputs and the medical record rather than a standard, predetermined set of questions and answers. Nothing in the cited art discloses that such functionality is well known in the art.

Furthermore, with respect to the dependent claims, a combination of Joao and Campbell does not reasonably teach or suggest the limitations of the dependent claims of the present

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application. For example, neither Joao nor Campbell teaches or suggests that process form fields include process fields containing process calls invoking corresponding support processes upon corresponding user inputs to the process fields, as recited in claims 5 and 15. Neither Joao nor Campbell teaches or suggests that support operations include first support processes for invoking second support processes dependent upon user inputs, as recited in claims 6 and 16. Rather, Joao and Campbell rely on standard, predetermined questions and answers to “support” a physician in lieu of a traditional hardcopy reference text.

Both Joao and Campbell also fail to teach or fairly suggest a medical support system with a support process for modifying the information displayed in a present process form, as recited in claims 8 and 18. Additionally, Joao and Campbell do not teach or suggest translating between medical terms displayed to and entered by a user and corresponding equivalent but different medical terms employed in the support operations, as recited in claims 10 and 20. The cited passages of Campbell, as well as the remainder of Joao and Campbell, provide no support for such a system and method. Thus, dependent claims 2-10 and 12-20 should be allowable in view of the cited art.

The Examiner makes several statements throughout the Office Action that certain features of the pending claims are “old and well known in the art” and relies upon Campbell to support that proposition. However, as the Applicant has outlined above, Campbell does not disclose or provide sufficient evidence of these features. Therefore, in the event that the Examiner is implicitly taking Official Notice that these features are old and well known in the art apart from the Campbell reference, the Applicant respectfully traverses any such assertion of

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Official Notice. As demonstrated by Joao, Campbell, Barry, Niff, and Blasingame, the novel combination of features claimed in pending claims 1-20 is not old and well known in the art.

If the Examiner's assertion is based on the personal knowledge of the Examiner, then under MPEP § 2144.03(C) and 37 C.F.R. § 1.104(d)(2), the Examiner's assertion must be supported by an affidavit from the Examiner. In addition, the Applicant respectfully submits that the Examiner's assertions are not well known in the art as evidenced by the searched and cited prior art. The Applicants respectfully submit that the Examiner has performed "a thorough search of the prior art," as part of the Examiner's obligation in examining the present application under MPEP § 904.02. The Applicant respectfully submits that the cited references found during the Examiner's thorough and detailed search of the prior art are indicative of the knowledge commonly held in the art.

However, in the Examiner's thorough and detailed search of the relevant prior art, none of the applied prior art teaches or suggests the subject matter of the Examiner's assertions of Official Notice. The Applicant respectfully submits that if the subject matter of the Examiner's assertions of Official Notice had been of "notorious character" and "capable of instant and unquestionable demonstration as being well-known" under MPEP § 2144.03(A), then the subject matter would have appeared to the Examiner during the Examiner's thorough and detailed search of the prior art.

If the Examiner had found any teaching of relevant subject matter, the Examiner would have been obligated to list the references teaching the relevant subject matter and make a rejection. Consequently, the Applicant respectfully submits that the prior art does not teach or suggest the subject matter of the Examiner's assertions of Official Notice and respectfully traverse the Examiner's assertions of Official Notice.

FROM McANDREWS, HELD, & MALLOY

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Thus, the Applicant respectfully submits that claims 1-20, as amended, are allowable of the prior art of record, including the art cited but not relied upon by the Examiner. The Applicant requests an action to that effect and invites the Examiner to contact the Applicant's attorney to resolve any outstanding issues.

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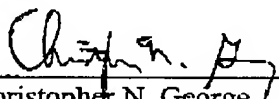
CONCLUSION

The Applicants submit that the present application is in condition for allowance. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited and encouraged to contact the Applicants at the number below.

The Commissioner is authorized to charge any additional fees or credit overpayment to the Deposit Account of GEMS-IT, Account No. 502401.

Respectfully submitted,

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